



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/783,469	02/12/2001	Emilio Barbera-Guillem	B-40	1321

21130 7590 09/23/2002

BENESCH, FRIEGLANDER, COPLAN & ARONOFF LLP
ATTN: IP DEPARTMENT DOCKET CLERK
2300 BP TOWER
200 PUBLIC SQUARE
CLEVELAND, OH 44114

[REDACTED] EXAMINER

ACQUAH, SAMUEL A

[REDACTED] ART UNIT 1711

[REDACTED] PAPER NUMBER

DATE MAILED: 09/23/2002

6

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

09/783,469

BARBERA-GUILLEM, EMILIO

Examiner

SAMUEL A. ACQUAH

Art Unit

1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 12 February 2001.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-38 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-38 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____.
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) Other: _____

DETAILED ACTION

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Castro et al '038 in view of Korgel et al.

The common-inventor patent to Castro et al discloses functionalized nanocrystals, method of preparation, and use in detection systems. Patentees do not disclose the use of liposomes in the preparation of the nanocrystals. It is the Examiner's position that said disclosure would have been obvious in view of the teachings of the secondary reference which discloses method for preparing nanocrystals using liposomes such as phosphatidylcholine. Patentees teach that the growth of nanocrystals in liposomes may provide a more rationally based method to produce particles of predertimed size, shape, and crystallinity.

2. Other references listed on PTO-1449 have been made part of the record.
3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SAMUEL A. ACQUAH whose telephone number is 703-308-2436. The examiner can normally be reached on M-TH, FRIDAYS OFF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JAMES SEIDLECK can be reached on 703-308-2462. The fax phone numbers for the organization where this application or proceeding is assigned are 703-

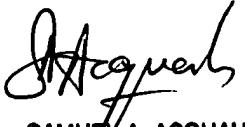
Application/Control Number: 09/783,469
Art Unit: 1711

Page 3

305-7718 for regular communications and 703-872-9311 for After Final
communications.

Any inquiry of a general nature or relating to the status of this application or
proceeding should be directed to the receptionist whose telephone number is 703-305-
0661.

S.A.A.
September 22, 2002


SAMUEL A. ACQUAH
PRIMARY EXAMINER
GROUP 1200 1700